

## § 746.5

(5) Catalytic reactors meeting American Society of Mechanical Engineers 8 standards; or

(6) Prepared catalysts, including catalysts containing platinum and catalysts containing molybdenum.

(E) Spare parts for any of the items described in paragraph (c)(2)(vii) of this section.

(3) Notwithstanding the presumptions of denial in paragraphs (c)(2) (i) through (iii) of this section, licenses will generally be issued for items not included in paragraphs (c)(2) (iv) through (vii) of this section when the transaction involves:

(i) The export or reexport of commodities or technology and software under a contract in effect prior to March 12, 1982, where failure to obtain a license would not excuse performance under the contract;

(ii) Reexport of items not controlled for national security purposes that had been exported from the United States prior to March 12, 1982 or exports of foreign products incorporating such items as components; or

(iii) Incorporation of U.S.-origin parts, components, or materials in foreign-manufactured products destined for Libya, where the U.S. content is 20 percent or less by value.

(4) Notwithstanding the presumption of denial in paragraph (c)(2) (iv) through (vii), applications for reexports under a contract pre-dating January 18, 1994, will be reviewed under the licensing policy in effect prior to that date.

(5) Licenses will generally be considered favorably on a case-by-case basis when the transaction involves the following items, provided such items are not included in paragraph (c)(2) (iv) through (vii):

(i) Reexports of items subject to national security controls that were exported prior to March 12, 1982 and exports of foreign products incorporating such U.S.-origin components, where the particular authorization would not be contrary to specific foreign policy objectives of the United States; or

(ii) Items destined for use in the development or construction of the petrochemical processing complex at Ras Lanuf, where the transaction could be approved but for the general policy of

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denial set out in paragraph (c)(2)(iii), and where either:

(A) The transaction involves a contract in effect before December 20, 1983 that requires export or reexport of the items in question; or

(B) The items had been exported from the U.S. before that date.

(iii) Other unusual situations such as transactions involving firms with contractual commitments in effect before March 12, 1982.

(6) Licenses will generally be considered favorably on a case-by-case basis for the reexport of reasonable quantities for civil use of off-highway wheel tractors of carriage capacity of 9t (10 tons) or more, as defined in ECCN 9A990.b, provided such tractors are not for uses described in paragraph (c)(2) (iv) through (vi) of this section.

(7) All other reexports not covered by United Nations resolutions will generally be approved, subject to any other licensing policies applicable to a particular transaction.

(d) Libya has been designated by the Secretary of State as a country whose government has repeatedly provided support for acts of international terrorism. For anti-terrorism controls, see Supplement 2 to part 742 of the EAR.

(e) *Related controls.* OFAC administers broad economic sanctions on Libya, and restricts participation by U.S. persons in transactions with Libya or specially designated Libyan nationals. The applicable OFAC regulations, the Libyan Sanctions Regulations, are found in 31 CFR part 550.

[61 FR 12806, Mar. 25, 1996, as amended at 61 FR 64284, Dec. 4, 1996; 62 FR 25460, May 9, 1997; 63 FR 42229, Aug. 7, 1998; 64 FR 49383, Sept. 13, 1999]

## § 746.5 North Korea.

(a) *License requirements.* As authorized by section 6 of the Export Administration Act of 1979, as amended (EAA) and by the Trading with the Enemy Act of 1917, as amended, you will need a license to export or reexport items subject to the EAR (see part 734 of the EAR) to North Korea, except as follows:

(1) *License Exceptions.* You may export without a license if your transaction meets all the applicable terms

and conditions of any of the License Exceptions specified in this paragraph. To determine scope and eligibility requirements, you will need to turn to the sections or specific paragraphs of part 740 of the EAR (License Exceptions). Read each License Exception carefully, as the provisions available for embargoed countries are generally narrow.

(i) Temporary exports and reexports (TMP) by the news media (see § 740.9(a)(2)(viii) of the EAR).

(ii) Operation technology and software (TSU) for legally exported commodities (see § 740.13(a) of the EAR).

(iii) Sales technology (TSU) (see § 740.13(b) of the EAR).

(iv) Software updates (TSU) for legally exported software (see § 740.13(c) of the EAR).

(v) Parts (RPL) for one-for-one replacement in certain legally exported commodities (§ 740.10(a) of the EAR).

(vi) Baggage (BAG) (§ 740.14 of the EAR).

(vii) Aircraft and vessels (AVS) for fishing vessels under governing international fishery agreements and foreign-registered aircraft on temporary sojourn in the U.S.<sup>1</sup> (see § 740.15(a) and (b)(1) of the EAR).

(viii) Governments and international organizations (GOV) (see § 740.11 of the EAR).

(ix) Gift parcels and humanitarian donations (GFT) (see § 740.12 of the EAR).

(x) Permissive reexports of certain spare parts in foreign-made equipment (see § 740.16(h) of the EAR).

(2) [Reserved]

(b) *Licensing policy.* Items requiring a license are subject to a general policy of denial. Exceptions to the policy of denial are as follows:

(1) BXA will review on a case-by-case basis applications for export of donated human-needs items listed in Supplement No. 2 to part 740 of the EAR that do not qualify for the humanitarian donation provisions of License Exception GFT (see § 740.12(b) of the EAR). Such applications include single trans-

actions involving exports to meet emergency needs.

(2) BXA will review on a case-by-case basis applications for commercial sales of human-needs items. Such applications must be for items listed in Supplement No. 2 to part 740 of the EAR, but are not limited solely to small scale projects at the local level.

(c) North Korea has been designated by the Secretary of State as a country whose government has repeatedly provided support for acts of international terrorism. For anti-terrorism controls, see Supplement 2 to part 742 of the EAR.

(d) *Related controls.* OFAC maintains controls on the activities of persons subject to U.S. jurisdiction, wherever located, involving transactions with North Korea or any specially designated North Korean national.

[61 FR 12806, Mar. 25, 1996, as amended at 61 FR 64284, Dec. 4, 1996; 62 FR 25460, May 9, 1997]

#### § 746.6 [Reserved]

#### § 746.7 Iran.

The Treasury Department's Office of Foreign Assets Control (OFAC) administers a comprehensive trade and investment embargo against Iran under the authority of the International Emergency Economic Powers Act of 1977, as amended, section 505 of the International Security and Development Cooperation Act of 1985, and Executive Orders 12957 and 12959 of March 15, 1995 and May 6, 1995, respectively. This embargo includes prohibitions on export and certain reexport transactions involving Iran, including transactions dealing with items subject to the EAR. (See OFAC's Iranian Transactions Regulations, 31 CFR part 560.) BXA continues to maintain licensing requirements on exports and reexports to Iran under the EAR as described in paragraph (a)(2) of this section. No person may export or reexport items subject to both the EAR and OFAC's Iranian Transactions Regulations without prior OFAC authorization.

(a) *License requirements*—(1) *OFAC administered embargo.* You should consult with OFAC if:

(i) You seek authorization to export from the United States; or

<sup>1</sup>Export of U.S. aircraft on temporary sojourn or vessels is prohibited, 44 CFR Ch. IV, Part 403 "Shipping restrictions: North Korea (T-2)."